

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

CARMEN DELIA RODRIGUEZ,
933 Brock Street, P.O. Box 276
Ashland, PA 17921

Plaintiff,

CIVIL ACTION

v.

No.: 1:20-cv-01702-SHR

MASTRONARDI PRODUCE-USA, INC. *d/b/a*
MASTRONARDI PRODUCE
501 Old Forge Road
Jonestown, PA 17038

JURY TRIAL DEMANDED

Defendant.

**DEFENDANT'S ANSWER AND AFFIRMATIVE DEFENSES
TO PLAINTIFF'S COMPLAINT AND JURY DEMAND**

Defendant Mastronardi Produce-USA, Inc. *d/b/a* Mastronardi Produce (“Mastronardi”), through its counsel Clark Hill PLC, states for its Answer and Affirmative Defenses to Plaintiff’s Complaint and Jury Demand as follows:

INTRODUCTION

1. 1. Defendant admits only that Plaintiff purports to make a claim for damages. Defendant denies that the allegations in Plaintiff’s Complaint have merit or that Defendant is liable to Plaintiff for any reason.

JURISDICTION AND VENUE

2. Paragraph 2 of Plaintiff's Complaint states a legal conclusion for which no response is required.

3. Paragraph 3 of Plaintiff's Complaint states a legal conclusion for which no response is required.

4. Paragraph 4 of Plaintiff's Complaint states a legal conclusion for which no response is required.

5. Paragraph 5 of Plaintiff's Complaint states a legal conclusion for which no response is required.

PARTIES

6. Defendant re-alleges and incorporates, by reference, its answers to Paragraphs 1 through 6 as if fully set forth in this paragraph.

7. Defendant lacks sufficient knowledge or information to either admit or deny the allegations contained in paragraph 7 and leaves Plaintiff to her proofs.

8. Admitted.

9. Defendant lacks sufficient knowledge or information to either admit or deny the allegations contained in paragraph 9 and leaves Plaintiff to her proofs.

FACTUAL BACKGROUND

10. Defendant re-alleges and incorporates, by reference, its answers to Paragraphs 1 through 9 as if fully set forth in this paragraph.
11. Admitted.
12. Defendant denies as stated the allegations contained in paragraph 12.
13. Defendant denies as untrue the allegations contained in paragraph 13.
14. Defendant lacks sufficient knowledge or information to either admit or deny the allegations contained in paragraph 14 and leaves Plaintiff to her proofs.
15. Defendant lacks sufficient knowledge or information to either admit or deny the allegations contained in paragraph 15 and leaves Plaintiff to her proofs.
16. In response to paragraph 16, Defendant denies as stated and as untrue the allegations in paragraph 16.
17. Defendant denies as untrue the allegations contained in paragraph 17.
18. Defendant denies as untrue the allegations contained in paragraph 18.
19. Defendant denies as untrue the allegations contained in paragraph 19.
20. Defendant denies as untrue the allegations contained in paragraph 20 and its subparts a - c.
21. Defendant denies as untrue the allegations contained in paragraph 21.
22. Defendant denies as untrue the allegations contained in paragraph 22.
23. Defendant denies as untrue the allegations contained in paragraph 23.

24. Defendant denies as untrue the allegations contained in paragraph 24.

COUNT I

Violations of the Americans with Disabilities Act, as Amended (“ADA”)
([1] Actual/Perceived/Record of Disability Discrimination; [2] Retaliation;
[3] Hostile Work Environment; and [4] Failure to Accommodate)

25. Defendant re-alleges and incorporates, by reference, its answers to Paragraphs 1 through 24 as if fully set forth in this paragraph.

26. Defendant lacks sufficient knowledge or information to either admit or deny the allegations contained in paragraph 26 and leaves Plaintiff to her proofs.

27. Defendant denies as untrue the allegations contained in paragraph 27.

28. Defendant denies as untrue the allegations contained in paragraph 28.

29. Defendant denies as stated the allegations contained in paragraph 29.

30. Defendant denies as untrue the allegations contained in paragraph 30.

31. Defendant denies as untrue the allegations contained in paragraph 31.

32. Defendant denies as untrue the allegations contained in paragraph 32.

33. Defendant denies as untrue the allegations contained in paragraph 33.

34. Defendant denies as untrue the allegations contained in paragraph 34.

35. Defendant denies as untrue the allegations contained in paragraph 35.

WHEREFORE, Defendant respectfully requests that this Court: (1) dismiss Plaintiff's Complaint with prejudice; (2) award Defendant its costs and attorneys'

fees wrongfully incurred; and (3) grant such further and additional relief as justice and fairness require.

**DEFENDANT'S AFFIRMATIVE DEFENSES
TO PLAINTIFF'S COMPLAINT AND JURY DEMAND**

Defendant, by and through its undersigned attorneys, states for its Affirmative Defenses to Plaintiff's Complaint as follows:

1. Plaintiff's Complaint fails to state a claim upon which relief can be granted.
2. Plaintiff's Complaint is barred by the arbitration provisions contained in the Dispute Resolution Agreement that Plaintiff entered into with Defendant.
3. Plaintiff's Complaint fails to state a claim for disability discrimination for the reason that Plaintiff cannot establish a *prima facie* case and cannot show that Defendant's articulated reason for its actions were false and pretextual for intentional discrimination.
4. Plaintiff's Complaint is barred in whole or in part by the applicable statute of limitations, contractual limitations periods, and/or administrative filing requirements.
5. Plaintiff's claims may be barred in whole or in part by facts and circumstances that have become known since Plaintiff's termination.

6. Plaintiff is not entitled to monetary relief either in the form of back pay, front pay or compensatory damages due to her failure to properly mitigate damages which constitute an appropriate set off.

7. Defendant reserves the right to add any additional affirmative defenses that may become known during the course of discovery or otherwise.

WHEREFORE, Defendant respectfully requests that this Honorable Court dismiss Plaintiff's Complaint in its entirety, with prejudice, and award Defendant its costs and attorney fees and any other equitable relief deemed just and appropriate.

Dated: November 20, 2020

Respectfully submitted,

CLARK HILL PLC

/s/ Lisa Carney Eldridge

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Of Counsel: – (pro hac vice motion to
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CERTIFICATE OF SERVICE

The undersigned certifies that she electronically filed the foregoing document with the Clerk of the Court through means of the Case Management Electronic Filing System on November 20, 2020, who sent notification of such filing to all parties and/or attorneys of record for all parties, to the above case at their respective addresses and as indicated on the pleadings.

CLARK HILL PLC

/s/ Lisa Carney Eldridge
Lisa Carney Eldridge